

**MINUTES OF THE MEETING
OF THE
BOARD OF CHIROPRACTIC**

December 9, 2005

ROLL CALL

Lance Earhart, Chairperson, called the meeting of the Board of Chiropractic to order at 8:46 a.m., on Friday, December 9, 2005 in Conference Room Lower Level D, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. The meeting was duly publicized by distribution of the Notice of Meeting and Agenda 10 days prior to the meeting and posting the agenda at the entrance of the Health and Human Services Department at least twenty-four (24) hours prior to the meeting.

The following Board members and HHSS Staff were present at the meeting:

Lance Earhart, DC, Chairperson
Kevin Davis, DC, Vice Chair
Gaylord Hanssen, DC, Secretary
Laurie Scholl, Consumer Member

Diane Hansmeyer, Section Administrator
Delores James, Credentialing Coordinator
Brad Shaff, Assistant Attorney General
Barb Remmers, Investigator
Mike Grutsch, Program Manager
Mike O'Brien, Investigator (Entered mtg. 9:10 a.m.)
Loretta Bennett, Investigator

Adoption of the Agenda

Hanssen moved, seconded by Davis, for adoption of the agenda after adding "PT proposal for scope change", as agenda item C, under old business, and moving item J under new business to be discussed after agenda item III. Voting aye: Earhart, Hanssen, Davis and Scholl. Voting nay: None. Not voting: None. Motion carried.

Approval of Minutes

Davis moved, seconded by Scholl, to approve the minutes for August 12, and October 26, 2005. Voting aye: Hanssen, Davis, Scholl and Earhart. Voting nay: None. Not voting: None. Motion carried.

INVESTIGATIONAL REPORTS

ADVERTISEMENT ISSUES (Closed Session)

Davis moved, seconded by Hanssen, to move into closed session at 8:54 a.m. for the purpose of discussing investigational reports and advertisement issues and to protect the reputation of individuals. Voting aye: Davis, Scholl, Earhart, and Hanssen. Voting nay: None. Not voting: None. Motion carried.

Out of Closed Session

Davis moved, seconded by Hanssen, to come out of closed session at 10:40 a.m. Voting aye: Scholl, Earhart, Hanssen and Davis. Voting nay: None. Not voting: None. Motion carried.

O'Brian left the meeting at 9:50 a.m.

Grutsch left the meeting at 10:25 a.m.

Remmers, Bennett and Shaff left the meeting at 10:42 a.m.

Recess 10:42 a.m.

Reconvened 11:00 a.m.

LOWER GRADE POINT AVERAGES

Earhart requested that "Lower Grade Point Averages" be placed on the agenda for discussion because of a conversation he had with a licensee from another state during the annual meeting. Earhart understood the licensee to say that doctors with lower grade point averages are the ones who get in trouble more often.

Earhart explained that the information was incorrect because no official study has been done on these issues.

TRAINING REQUIRED TO USE SURFACE EMG IN OFFICE (Attachment A)

Nicole Lundberg wrote to the Board inquiring about whether or not chiropractors needed training to be able to use surface electromyography (EMG) in their offices and if training could be done by video.

EMG is a medical technique for measuring muscle response to nervous stimulation. EMG can help to distinguish primary muscle conditions from muscle weakness caused by neurologic disorders. It is used to find causes of weakness, paralysis, involuntary twitching, and abnormal levels of muscle enzymes. It can help diagnose neuromuscular disorders such as motor neuron disease, neuropathy, nerve damage and muscle damage.

Davis stated that there are two types of EMG's; the needle and the trans-dermal. He said that there is a lot of controversy over the value of surface EMG Vs needle EMG.

The Board reviewed Chapter 30, "Regulations Defining and Governing The Use of Routine Procedures by Chiropractors" and will send a response to Ms. Lundberg, informing her that electromyography (EMG) is within the chiropractic scope of practice, but practitioners have to undergo training and maintain an adequate level of competency.

SCOPE OF PRACTICE QUESTION**Can Chiropractors Utilize Intense Pulse Light (IPL) (Attachment B)**

Traci Warner sent a letter to the Board asking if chiropractors in Nebraska could utilize intense pulse light (IPL) and also sent copies of the following documents to further define IPL: a copy of the SpectraClear Intense Pulsed Light System pamphlet; a copy of an article from the

Chiropractor Products, titled, *Hair Raising Venture*; and the October 30, 2003 minutes from the Oklahoma Board of Chiropractic Examiners.

IPL Motion

The Board reviewed and discussed this information and made the following motion: Davis moved, seconded by Hanssen, that the Board not give an opinion on the use of Intense Pulse Light (IPL) by chiropractors and will advise Ms. Warner to seek legal advise from an attorney if she wants further information on this subject. Voting aye: Davis, Hanssen and Scholl. Voting nay: Earhart. Not voting: None. Motion carried.

CCE International Information (Attachment C)

The Board reviewed information on the European Council on Chiropractic Education in order to compare this program with the CCE program in the United States. This discussion came about because of the Sharon Macdonald's case. The Chiropractic Examining Board denied Ms. Macdonald a license in California because she graduated from the Canadian Memorial Chiropractic College (CMCC). This case went to the California Superior Court, which ruled that she was entitled to take the licensure examination.

After reviewing and discussing the two education programs and to prevent this type of thing from happening in Nebraska, the Board decided to add United States Council of Chiropractic Education and their address to the regulations.

Motion

Davis moved, seconded by Hanssen, to revise the chiropractic rules and regulations to list the name of the United States Council of Chiropractic Education and their address as the pre-chiropractic education program accepted for Nebraska licensure. Voting aye: Hanssen, Scholl, Earhart and Davis. Voting nay: None. Not voting: None. Motion carried.

OLD BUSINESS

Letter to Managed Care providers

Closed Session

Hanssen moved, seconded by Davis, to go into closed session at 12:30 p.m. for the purpose of protesting the reputation of individuals and entities. Voting aye: Scholl, Earhart, Davis and Hanssen. Voting nay: None. Not voting: None. Motion carried.

Out of Closed Session

Davis moved, seconded by Hanssen, to come out of closed session at 12:40 p.m. Voting aye: Earhart, Davis, Hanssen and Scholl. Voting nay: None. Not voting: None. Motion carried.

Number of Times A Person Can Take the Examination

Hansmeyer asked if anyone was aware of the guidelines limiting the number of times a

prospective licensee could take the examination once they failed it several times. Davis thought he had read somewhere, that if a person failed the examination two or three times they would have to wait a year before taking it again. The Board did not show interest in pursuing this issue.

Physical Therapy Proposal for Scope Change

Earhart wanted to discuss the physical therapy proposal for scope of practice changes. He called the Board's attention to a proposed change that reads as follows: "Any person who offers or propose service to another or bills another for services shall not characterize such services as physical therapy or physiotherapy. Earhart was concerned that chiropractors would not be able to perform physiotherapy if this law should pass.

Hansmeyer explained that this proposed statutory change was addressing billing problems and would not affect the ability of chiropractors to perform physiotherapy because this change would not supercede the chiropractic law.

The Board will put this subject on the agenda for the next meeting.

Recess 12:51 p.m.

Reconvened 1:04 p.m.

NEW BUSINESS

LAP Report (Attachment C)

Hansmeyer gave the Board a Licensee Assistance Program report for the period of July 1, through September 30, 2005. This report contained statistical information on health care professionals in Nebraska and is prepared quarterly by the program coordinator for the Licensee Assistance Program.

NBCE To Reduce Fees in 2006 (Attachment D)

Correspondence was received from the National Boards of Chiropractic Examiners regarding the reduction of the examination fees. This was for informational purposes only.

FCLB's 80th Annual Congress (May 3-7, 2006 Portland, OR)

Davis moved, seconded by Scholl, to send all four board members to the Federation of Chiropractic Licensing Boards' 80th Annual Congress, which will be held on May 3-7, 2006 in Portland, OR. Voting Aye: Davis, Hanssen, Earhart and Scholl. Voting nay: None. Not voting: None. Motion carried.

Davis informed the Board that he might not be able to attend the national meeting because of a prior engagement.

FCLB Membership Dues 2006 (\$575)

Scholl moved, seconded by Hanssen, to pay the Federation of Chiropractic Licensing Boards membership dues in the amount of \$575 for 2006. Voting Aye: Hanssen, Earhart, Scholl and Davis. Voting nay: None.

Not voting: None. Motion carried.

Appointment of Voting Delegate and Alternate for FCLB Annual Congress

Davis moved, seconded by Hanssen, to appoint Dr Earhart as the voting delegate and Dr. Hanssen as the alternate for the FCLB 2006 Annual Congress. Voting aye: Earhart, Scholl, Davis and Hanssen. Voting nay: None. Absent and not voting: None. Motion carried.

Appointment of Voting Delegate and Alternate for NBCE Meeting

Davis moved, seconded by Hanssen, to appoint Dr. Hanssen as the voting delegate and Dr. Earhart as the alternate for the NBCE 2006 meeting. Voting aye: Scholl, Davis, Hanssen and Earhart. Voting nay: None. Absent and not voting: None. Motion carried.

Board Members Participation in Part IV National Exam. (May 19-21 & Nov. 10-12, 2006)

Earhart stated that he would act as an examination administrator for Part IV of the National Board of Chiropractic Examiners' practical examination, which is to be given on May 19-21, 2006.

The other Board members indicated that they would need to check their schedules before accepting the responsibility for the November examination.

This subject will be put on the agenda for the next board meeting.

Board/Staff Duties and Responsibilities

This agenda item will be placed on the next agenda.

Complaint Screener and Inv. Consultant

Hanssen moved, seconded by Davis, that the duties for complaint screener and investigative consultant be rotated between Earhart, Hanssen and Davis. Voting aye: Davis, Hanssen, Earhart and Scholl. Voting nay: None. Absent and not voting: None. Motion carried.

Laptop Computers for Board Members

Earhart discussed the need to purchase laptop computers for all of the Board member and the assigned staffs in order to eliminate the use of paper documents and save time and money for the Department.

Hansmeyer stated that she would need to research the price of laptop computers and if after seeing the prices, the Board still wanted to submit a request, she would have to write a letter of justification in order to get an approval for purchase. Hansmeyer will send information to Board members regarding the price of laptops.

Election of Officers

Davis nominated Gaylord Hanssen as Chairperson, Laura Scholl as Vice-Chair and Lance Earhart as secretary. Davis moved, seconded by Hanssen, to close the nomination process and cast votes for the aforementioned officers. Voting aye: Scholl, Davis, Earhart and Hanssen. Voting nay: None. Absent and not voting: None. Motion carried.

MISCELLANEOUS

2006 Board Meeting Dates

The 2006 board meeting dates are: Thursday, March 23, Friday, September 15, and Friday, December 1, 2006 at 9:00 a.m. in Lincoln, Nebraska.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:32 p.m.

Respectfully submitted,

Gaylord Hanssen, DC, Secretary